

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

MONICA COLELLA, Administrator for the
Estate of Karen Sue Foster, deceased;

Plaintiff,

vs.

NEBRASKA METHODIST HEALTH
SYSTEM, INC., THE NEBRASKA
METHODIST HOSPITAL, JOHN DOES 1-
10, agents, servants and employees of Nebraska
Methodist Health System, Inc. and/or The
Nebraska Methodist Hospital, whose real
names are unknown; and JANE DOES 1-10,
agents, servants and employees of Nebraska
Methodist Health System, Inc. and/or The
Nebraska Methodist Hospital, whose real
names are unknown;

Defendants.

8:19CV120

**SECOND AMENDED FINAL
PROGRESSION ORDER**

THIS MATTER is before the Court on the parties' Joint Motion to Extend Deadlines. ([Filing No. 59.](#)) The motion is granted. Accordingly,

IT IS ORDERED that the provisions of the Court's earlier final progression orders remain in effect, and in addition to those provisions, the following shall apply:

- 1) The jury trial of this case is set to commence before John M. Gerrard, Chief United States District Judge, in the Special Proceedings Courtroom, Roman L. Hruska Federal Courthouse, 111 South 18th Plaza, Omaha, Nebraska, at **9:00 a.m.** on **September 14, 2020**, or as soon thereafter as the case may be called, for a duration of ten (10) trial days. This case is subject to the prior trial of criminal cases and other civil cases that may be scheduled for trial before this one. Jury selection will be held at the commencement of trial.
- 2) The Pretrial Conference is scheduled to be held before the undersigned magistrate judge on **August 24, 2020** at **10:00 a.m.**, in Chambers. The parties' proposed Pretrial Conference Order and Exhibit List(s) must be emailed to basis@ned.uscourts.gov, in Word format, **by 12:00 p.m. on August 19, 2020**.
- 3) The telephonic status conference to discuss **case progression and the parties' interest in settlement**, presently scheduled for **July 7, 2020**, is canceled and is rescheduled to be held with the undersigned magistrate judge on **July 13, 2020** at **10:00 a.m.** Counsel shall use the conferencing instructions assigned to this case to participate in the conference. ([Filing No. 19.](#))

- 4) The deadline for serving initial mandatory disclosures under Rule 26(a)(1) is **July 8, 2019**.

- 5) The deadlines for moving to amend pleadings or add parties are:

For the plaintiff(s):	November 8, 2019
For the defendant(s):	November 9, 2019

- 6) The deadline for completing written discovery under Rules 33, 34 and 36 of the Federal Rules of Civil Procedure is **July 10, 2020**. Motions to compel discovery under Rules 33, 34 and 36 must be filed by **July 24, 2020**.

Note: A motion to compel, to quash, or for a disputed protective order shall not be filed without first contacting the chambers of the undersigned magistrate judge to set a conference for discussing the parties' dispute.

- 7) The deadlines for identifying expert witnesses expected to testify at the trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), are:

For the plaintiff(s):	December 23, 2019
For the defendant(s):	April 22, 2020
Plaintiff(s)' rebuttal:	May 11, 2020

- 8) The deadlines for complete expert disclosures¹ for all experts expected to testify at trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), are:

For the plaintiff(s):	April 22, 2020
For the defendant(s):	June 23, 2020
Plaintiff(s)' rebuttal:	July 6, 2020

- 9) The deposition deadline is **June 15, 2020**, except for experts, which is **July 6, 2020**.

- a. The maximum number of depositions that may be taken by the plaintiffs as a group and the defendants as a group is 10.
- b. Depositions will be limited by Rule 30(d)(1).

- 10) **Motions to Dismiss and Motions for Summary Judgment.** The parties do not anticipate filing motions to dismiss, for judgment on the pleadings, or for summary judgment as to any claims and/or defenses.

¹ While treating medical and mental health care providers are generally not considered "specially retained experts," not all their opinions relate to the care and treatment of a patient. Their opinion testimony is limited to what is stated within their treatment documentation. As to each such expert, any opinions which are not stated within that expert's treatment records and reports must be separately and timely disclosed.

- 11) The deadline for filing motions to exclude testimony on *Daubert* and related grounds is **July 14, 2020**.
- 12) Motions in limine shall be filed seven days before the pretrial conference. It is not the normal practice to hold hearings on motions in limine or to rule on them prior to the first day of trial. Counsel should plan accordingly.
- 13) The parties shall comply with all other stipulations and agreements recited in their Rule 26(f) planning report that are not inconsistent with this order.
- 14) All requests for changes of deadlines or settings established herein shall be directed to the undersigned magistrate judge, including all requests for changes of trial dates. Such requests will not be considered absent a showing of due diligence in the timely progression of this case and the recent development of circumstances, unanticipated prior to the filing of the motion, which require that additional time be allowed.

Dated this 26th day of February, 2020.

BY THE COURT:

s/ Susan M. Bazis
United States Magistrate Judge